

Federal Court Certifies Nine Producer Classes in Syngenta Litigation

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On September 26, 2016, Kansas federal district court judge John Lungstrum certified eight state classes and one national class of corn producer plaintiffs in the Syngenta litigation. This means corn farmers--allegedly harmed by lower prices when China rejected US corn imports because the unapproved Syngenta GMO seed varieties--can have their day in federal court. Affected Nebraska corn farmers will begin receiving written notice soon informing them that they are automatically included in the Nebraska producer class and the national producer class. Farmers may opt out of the litigation but should contact an attorney very soon to do so.

What is the Syngenta lawsuit? Syngenta is being sued by thousands of corn producers, exporters, grain elevators and shippers regarding GMO seed varieties approved for sale in the US but not approved for import into China. In November 2013 China rejected US corn shipments, as possibly containing corn grown from the unapproved Syngenta seed. Corn prices dropped by more than half between summer 2012 and fall 2014. In response, grain exporters, corn producers and others have sued Syngenta, contending that China's rejection of US corn imports caused much or most of the price decline.

What is a class action lawsuit? Under federal law, a class action lawsuit may be authorized whereby class representatives litigate a lawsuit in a single trial, the outcome of which binds all members of the class who have not opted out. In the Syngenta case, the class is US corn producers (including crop share landlords) allegedly harmed by China's rejection of US corn imports containing corn grown Syngenta seed that China had not approved. Essentially this case will be litigated once instead of in hundreds or even thousands of individual lawsuits throughout the US.

Who is included in the Syngenta producer classes? All US corn produces who priced corn after November 18, 2013 and who did not purchase Viptera or Duracade corn seed, the Syngenta GMO seeds at issue. This includes corn farmers who have not signed up to participate in the Syngenta lawsuit.

What states had state classes certified? Arkansas, Illinois, Iowa, Kansas, Missouri, Nebraska, Ohio, and South Dakota. In these states there are separate legal actions against Syngenta authorized by state law for which Syngenta may be liable independent of Syngenta's potential liability under federal law.

If I am a member of a class, what are my options? You should begin receiving mailings from the law firms representing the class in the Syngenta producer class action lawsuit. The mailings will notify you that you are a member of the class, describe how to opt out of the class should you wish to do so, and keep you updated regarding case developments.

Why would I want to opt out of the class action? If you wish to sue Syngenta individually, or don't want to be involved at all, you will need to opt out of the producer class action lawsuit. Few producers will likely elect to do this but it is a required option under federal law.

What happens if the class action lawsuit is successful? All members of the class who didn't opt out will share proportionally in the recovery, based on the number of bushels affected.

How are the agribusiness plaintiffs affected by this? The non-farmer plaintiffs suing Syngenta, including grain exporters, grain elevators and grain transporters, are also seeking class action certification but the judge has not yet ruled on their petition.

What happens next? Syngenta reportedly is considering appealing Judge Lungstrum's producer class certification order. If that occurs, it will be longer before the trial begins than if there is no appeal. So stay tuned.

Where should I go for additional information? The information you receive regarding your membership in the producer class will indicate how to obtain additional information. The two articles cited below, written by land grant university agricultural law specialists in Texas and Iowa, have additional information regarding the Syngenta litigation.

References:

Tiffany Dowell, [Court Certifies 9 Classes in Syngenta Litigation](#) (Texas A&M University).

Kristine Tidgren, [Syngenta Producer Class Certification Granted](#) (Iowa State University).